

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 3	CCRB Case #: 201200928	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/25/2011 6:00 PM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 7/25/2012	EO SOL 7/25/2012	
Date/Time CV Reported Tue, 01/25/2011 7:51 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/28/2011 4:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Bulzoni	02681	936258	071 PCT
2. SGT Michael Falk	00608	923809	071 PCT
3. POM Leonel Ramos	28782	944155	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Douglas Ayres	02325	936160	071 PCT
2. POM Mark Kistoo	10224	943444	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Falk	Abuse: Sgt. Michael Falk authorized the stop of § 87(2)(b)	§ 87(2)(b)
B.SGT Michael Falk	Abuse: Sgt Michael Falk supervised the frisk of § 87(2)(b)	§ 87(2)(b)
C.POM Frank Bulzoni	Abuse: PO Frank Bulzoni frisked § 87(2)(b)	§ 87(2)(b)
D.POM Leonel Ramos	Abuse: PO Leonel Ramos frisked § 87(2)(b)	§ 87(2)(b)
E.SGT Michael Falk	Abuse: Sgt. Michael Falk supervised the search of § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
F.POM Frank Bulzoni	Discourtesy: PO Frank Bulzoni spoke obscenely to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(g)	§ 87(2)(b)

Case Summary

On January 25, 2011, § 87(2)(b) filed the following complaint by phone with the Internal Affairs Bureau (IAB), log # 11-03560, regarding incidents that occurred § 87(2)(b) January 25, 2011 (encl. C 1). The case was referred to the Civilian Complaint Review Board (CCRB) and was received on January 28, 2011 (encl. C 3-4). § 87(2)(g)

§ 87(2)(b) The January 25, 2011 incident involves the following:

On January 25, 2011 at approximately 6:00 p.m., § 87(2)(b) was standing outside of his apartment on the § 87(2)(b) floor of § 87(2)(b) in Brooklyn when he was approached by Sgt. Michael Falk, PO Douglas Ayers, PO Frank Bulzoni, PO Leonel Ramos, and PO Mark Kistoo. The following allegations resulted from the officers' actions:

Allegation A – Abuse of Authority: Sgt. Michael Falk authorized the stop of § 87(2)(b) § 87(2)(g)

Allegation B – Abuse of Authority: Sgt. Michael Falk supervised the frisk of § 87(2)(b)

Allegation C - Abuse of Authority: PO Frank Bulzoni frisked § 87(2)(b)

Allegation D - Abuse of Authority: PO Leonel Ramos frisked § 87(2)(b) § 87(2)(g)

Allegation E – Abuse of Authority: Sgt. Michael Falk supervised the search of § 87(2)(b) and § 87(2)(b) § 87(2)(g)

Allegation F - Discourtesy: PO Frank Bulzoni spoke obscenely to § 87(2)(b)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Due to the resignation of Investigator Nicole Weinstock, this case was reassigned to Investigator Eric Black on July 21, 2011.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a 5'6", 190 lbs., black male with brown hair.

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on March 3, 2011 (encl. C 5-9). § 87(2)(b) was also contacted by phone on August 24, 2011 for additional information. The information that § 87(2)(b) provided is summarized below.

On January 25, 2011 at approximately 7:50 p.m., § 87(2)(b) was inside of his building at § 87(2)(b) in Brooklyn and was speaking with his friend, § 87(2)(b) in front of his apartment door, § 87(2)(b) was wearing pajama pants, a t-shirt, and socks. The pajama pants had one rear pocket.

Four to five uniformed officers exited the stairwell and approached § 87(2)(b). These officers included PO Bulzoni, Sgt. Falk, and PO Ayers who had previously arrested § 87(2)(b) for § 87(2)(b). § 87(2)(g)

PO Bulzoni and Sgt. Falk told § 87(2)(b) to stand against the wall. PO Bulzoni, Sgt. Falk, and a 6', 250-lb, Hispanic male officer in his thirties who has been identified by the investigation as PO Leonel Ramos, searched § 87(2)(b) stating that they were searching for narcotics. § 87(2)(b) described the search as officers patting the outside of his clothing, and entering into a single back pocket that he had on the rear of his pajama pants. The officers removed a container of Chap Stick from this pocket. The officers also reached into the socks that he wore. § 87(2)(b) began to yell for his mother, § 87(2)(b) who was inside the apartment. Two other police officers, PO Ayers and PO Ramos, searched § 87(2)(b). The officers searched § 87(2)(b)'s jacket, jeans pockets, and his sneakers.

§ 87(2)(b) § 87(2)(b)'s grandmother, and § 87(2)(b) § 87(2)(b)'s mother, came to the door. Sgt. Falk blocked the apartment door with his body, and placed his arm across the doorway and told § 87(2)(b) not to exit the apartment. § 87(2)(b) asked the officers what they were doing and Sgt. Falk told § 87(2)(b) that § 87(2)(b) was a drug dealer. PO Bulzoni also told § 87(2)(b) that when he turned sixteen, he would arrest him.

§ 87(2)(b) walked under Sgt. Falk's arm and exited the apartment. She told the officers that she was going to file a complaint against them for harassment. Sgt. Falk responded by telling § 87(2)(b) that if she did that, he would call ACS, stating that the apartment was a drug apartment. § 87(2)(b) invited the officers to enter the apartment, but they declined. The

§ 87(2)(b) family and § 87(2)(b) entered the apartment and the officers left the location. The officers did call ACS, who later came to the apartment.

Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. She is a 5'2" black female with black hair.*

911 Call

§ 87(2)(b) called 911 on January 25, 2011 as the incident occurred. The call was transferred to IAB. § 87(2)(b) was also contacted by IAB on January 26, 2011 for further information (encl. F 1-4). § 87(2)(g)

During the call, § 87(2)(b) stated that officers who arrested § 87(2)(b) a few weeks prior were at her apartment harassing § 87(2)(b). Sgt. Falk was present and he was threatening to call ACS because § 87(2)(b) was previously arrested for drugs. § 87(2)(b) was searched while he was in his pajamas.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on February 10, 2011 (encl. C 10-16). § 87(2)(b) was also contacted by phone on August 16, 2011 and provided additional information. The information that § 87(2)(b) provided is summarized below.

On January 25, 2011, § 87(2)(b) was inside of her apartment, #§ 87(2)(b) of § 87(2)(b) when she heard her son, § 87(2)(b) yelling for her. § 87(2)(b) was with his friend, § 87(2)(b) and was standing outside of the apartment in the hallway.

§ 87(2)(b) exited the apartment and saw two police officers, who have been identified by the investigation as PO Bulzoni and Sgt. Falk, rubbing the outside of § 87(2)(b)'s clothing. § 87(2)(b) also saw § 87(2)(b) being searched by officers, but she did not specify how § 87(2)(b) was searched and did not know which officer conducted the search. PO Bulzoni and Sgt. Falk then stepped in between § 87(2)(b) and § 87(2)(b) and she was not able to see what else occurred.

§ 87(2)(b) asked the officers why they were searching § 87(2)(b) as he was in his pajamas. Sgt. Falk told § 87(2)(b) that § 87(2)(b) was a drug dealer. PO Bulzoni told § 87(2)(b) that they had a call that there was noise in the hallway. § 87(2)(b) told the officers that she was going to make a complaint against them because of their actions during § 87(2)(b)'s previous arrest. PO Bulzoni responded, stating, "Your son is a fucking liar."

§ 87(2)(b) felt like the officers were harassing her, so she told the officers that she was going to call 911. Sgt. Falk stated, "You calling 911? I'm calling ACS to let them know that you're a bad mother." § 87(2)(b) proceeded to call 911 and spoke with IAB. After speaking with IAB, the officers left and § 87(2)(b) returned to the apartment. That evening,

ACS came to the residence and informed § 87(2)(b) that there was an investigation because the officers informed her that she was a hoarder and bad mother.

Witness: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. She is a 5'3", 169 lbs. black female with black hair.*

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on April 4, 2011 (encl. C 17-21). § 87(2)(b) was also contacted by the CCRB by phone on August 11, 2011 and she provided further information. § 87(2)(g)

On January 25, 2011, § 87(2)(b) was inside of § 87(2)(b) apartment § 87(2)(b) in Brooklyn, with her daughter § 87(2)(b). § 87(2)(b) heard her grandson, § 87(2)(b) calling for his mother from outside of the apartment. § 87(2)(b) and § 87(2)(b) went to the door and saw § 87(2)(b) stopped by several police officers.

There were two white males officers running their hands repeatedly up and down § 87(2)(b)'s body. § 87(2)(b) had on pajama pants, a t-shirt, and slippers. There were no pockets in the pajama pants. § 87(2)(b) only saw the officers running their hands over § 87(2)(b)'s clothing and did not see them look into his slippers. When the officers were asked why they were searching § 87(2)(b) an officer identified by the investigation as PO Bulzoni, stated that § 87(2)(b) was a drug dealer and that he "would get him when he turns sixteen."

Witness: § 87(2)(b)

- *On the incident date, § 87(2)(b) was § 87(2)(b) old. She is a 5'5", 300 lbs., black female with brown hair and brown eyes.*

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on August 17, 2011 (encl. C 22-25). On the incident date, § 87(2)(b) was inside of her apartment, § 87(2)(b) of § 87(2)(b) in Brooklyn when she heard a noise outside of her apartment. § 87(2)(b) exited to find five to six uniformed police officers in the hallway. Also present in that hallway were her sister, § 87(2)(b) her nephew, § 87(2)(b) and her mother, § 87(2)(b). § 87(2)(b) was wearing pajamas, a t-shirt, and socks.

Upon exiting her apartment, § 87(2)(b) saw an officer who has been identified by the investigation as PO Bulzoni, arguing with § 87(2)(b) stating that § 87(2)(b) was a "fucking drug dealer." § 87(2)(b) did not see the officers frisk or search § 87(2)(b) stating that it must have occurred before she exited her residence. § 87(2)(b) looked inside of § 87(2)(b)'s apartment and saw an individual, who was identified by the investigation as

§ 87(2)(b) standing inside the apartment. § 87(2)(b) did not witness § 87(2)(b)'s interaction with the police.

Attempts to Interview Victim

Attempts were made to contact § 87(2)(b) in order to obtain his statement. Between March 7, 2011 and March 14, 2011, four calls were placed to § 87(2)(b). These calls went unanswered. A letter was sent to § 87(2)(b)'s address on March 17, 2011. On March 21, 2011 § 87(2)(b)'s mother contacted the CCRB by phone. § 87(2)(b) did not provide her first name and would not provide the CCRB with a means to reach § 87(2)(b). § 87(2)(b) told the CCRB that § 87(2)(b) had no knowledge of the incident, but stated that she would have him contact the CCRB on the following day. When § 87(2)(b) did not contact the CCRB, a second letter was sent to his residence on March 24, 2011, which went unanswered. A final call was placed to § 87(2)(b) on March 29, 2011, which also went unanswered. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

NYPD Statements:

Subject Officer: PO FRANK BULZONI

- *PO Bulzoni is a § 87(2)(b)-old, 5'9", 160 lbs., white male with brown hair and brown eyes.*
- *On January 25, 2011, PO Bulzoni worked from 3:00 p.m. to 11:35 p.m. PO Bulzoni was dressed in uniform and was assigned to business conditions with Sgt. Michael Falk and PO Douglas Ayers.*

Memobook

PO Bulzoni's memobook stated that on January 25, 2011 at 5:55 p.m., there was a call for a narcotics sale at § 87(2)(b). § 87(2)(b) was stopped in the § 87(2)(b) floor hallway (encl. D 1-5).

Stop, Question, and Frisk Report

PO Bulzoni completed a Stop, Question, and Frisk Report indicating a stop at 6:05 p.m. at § 87(2)(b) (encl. D 6) on January 24, 2011, the day before the incident. The name of the person stopped is not reported, but given the description of the person stopped, a 5'6", 200 lbs., § 87(2)(b)-old male, it is likely this report is for § 87(2)(b) and was filed under the wrong date. The report notes that an individual was stopped for furtive movements and actions indicative of engaging in drug transactions. The individual was frisked for inappropriate attire, possibly concealing a weapon. The individual was not searched.

CCRB Statement

PO Frank Bulzoni was interviewed at the CCRB on April 27, 2011 (encl. D 7-10). On January 25, 2011 at about 5:55 p.m., PO Bulzoni was conducting a vertical patrol with PO Ayers and Sgt. Falk at § 87(2)(b) in Brooklyn as a result of a radio call they received for a narcotics sale in the building. On the § 87(2)(b) floor, PO Bulzoni observed § 87(2)(b) standing with an

individual who has been identified by the investigation as § 87(2)(b) PO Bulzoni recognized § 87(2)(b) from the arrest the week before.

The officers approached the individuals and asked if they were doing drugs. PO Bulzoni frisked § 87(2)(b) upon approaching him because § 87(2)(b) had his hands in his pockets and when asked, § 87(2)(b) refused to remove his hands from his pockets. PO Bulzoni did not remember what § 87(2)(b) was wearing. PO Bulzoni did not search § 87(2)(b) and nothing was recovered from the frisk. § 87(2)(b) was also frisked, but PO Bulzoni did not know which officer did this. § 87(2)(b) started to yell for his mother.

§ 87(2)(b) and § 87(2)(b) exited a nearby apartment. § 87(2)(b) accused the officers of stalking and harassing § 87(2)(b). A female, who was identified by the investigation as § 87(2)(b) exited a nearby apartment and immediately asked § 87(2)(b) if the officers' presence had anything to do with their ACS case. Sgt. Falk commented along the lines, "Oh, you have an ACS case." Sgt. Falk did not state, "You're calling 911, so I'm calling ACS to let them know that you're a bad mother."

§ 87(2)(b) "went ballistic" and accused the officers of beating up § 87(2)(b) throwing him around, and falsely arresting him. PO Bulzoni told § 87(2)(b) that the officers previously found marijuana on § 87(2)(b) and informed her that § 87(2)(b) does drugs. PO Bulzoni did not state to § 87(2)(b) that § 87(2)(b) is a "fucking liar." PO Bulzoni did not threaten to arrest § 87(2)(b) when he turned 16 years old. Instead, PO Bulzoni informed § 87(2)(b) to stop doing what he was doing to try and tried to get through to him that his actions will have consequences once he turns sixteen. PO Bulzoni explained that he often has this conversation with fourteen and fifteen year olds who he sees "going down the wrong road." PO Bulzoni did state to § 87(2)(b) "At sixteen, all bets are off. Things you got away with last week you can't get away with anymore. You have to grow up."

Witness Officer: PO DOUGLAS AYRES

- PO Ayers is a § 87(2)(b)-old, 6', 150 lbs., white male with brown hair and green eyes.
- On January 25, 2011, PO Ayers worked the same tour and assignment as PO Bulzoni.

Memobook

On January 25, 2011, PO Ayers' memobook stated that he responded to a call for individuals smoking drugs on the § 87(2)(b) floor of § 87(2)(b). One male, § 87(2)(b) was stopped and a stop, question, and frisk report was prepared. ACS was notified (encl. 11-11a).

CCRB Statement

PO Douglas Ayers was interviewed at the CCRB on April 27, 2011 (encl. D 12-14). § 87(2)(g)

On January 25, 2011 at about 5:55 p.m., PO Ayers responded to § 87(2)(b) in Brooklyn in response to a call for two black males smoking marijuana on the sixth floor. PO Ayers, PO Bulzoni, and Sgt. Falk went to the § 87(2)(b) floor and observed § 87(2)(b) and § 87(2)(b)

standing in the hallway. The males were the only ones in the hallway when PO Ayres smelled marijuana. The officers approached the males and the odor became stronger. The officers asked what they were doing there and § 87(2)(b) explained that he lived there. § 87(2)(b) was wearing sweatpants and had his hands in his pockets and appeared nervous. PO Bulzoni and Sgt. Falk instructed § 87(2)(b) twice to remove his hands from his pockets but he did not comply.

§ 87(2)(b) screamed for his mother and § 87(2)(b) exited a nearby apartment. § 87(2)(b) was upset and felt as though the officers were following § 87(2)(b). Either PO Bulzoni or Sgt. Falk frisked § 87(2)(b) for weapons. PO Ayres explained that he did not physically interact with § 87(2)(b). PO Ayers denied that § 87(2)(b) was searched. PO Bulzoni and Sgt. Falk also interacted with § 87(2)(b) but PO Ayres did not participate in this or observe him be frisked or searched. No officer said that they will arrest § 87(2)(b) when he turned 16 years old or called him a “fucking liar.”

Subject Officer: SGT. MICHAEL FALK

- *Sgt. Falk is a § 87(2)(b)-old, 6', 180 lbs., white male with brown hair and hazel eyes.*
- *On January 25, 2011, Sgt. Falk was assigned to business conditions and worked from 2:50 p.m. until 11:47 p.m. Sgt. Falk worked with PO Ayers and PO Bulzoni and was dressed in uniform.*

Memobook

Sgt. Falk's memobook stated that at 8:20 p.m. he received a call from central regarding § 87(2)(b) at § 87(2)(b). Sgt. Falk called IAB and spoke with Det. Moore on January 25, 2011. Sgt. Falk had no memobook entries regarding the officers' initial response to § 87(2)(b) and the interaction with § 87(2)(b) and § 87(2)(b) (encl. D 15-18).

IAB Statement

On January 25, 2011, Sgt. Falk was contacted by Det. Sherod Moore of IAB by phone and made the following statement in regard to the incident (encl. F 2).

On the incident date, Sgt. Falk received a 911 call stating that there were two males smoking marijuana in the hallway of § 87(2)(b) in Brooklyn. Sgt. Falk conducted a vertical patrol and encountered two individuals standing in front of their apartment. Sgt. Falk recognized one of the individuals because he arrested him two weeks prior for marijuana. This individual has been identified by the investigation as § 87(2)(b). Since the radio run came over the radio for marijuana, Sgt. Falk thought that § 87(2)(b) was still smoking marijuana. When asked, Sgt. Falk stated that he did not find anything on § 87(2)(b).

§ 87(2)(b) started to scream for his mother, who was identified by the investigation as § 87(2)(b) and she came outside of the apartment, stating that the officers were harassing her son. § 87(2)(b) said that she was aware that § 87(2)(b) smoked marijuana, so Sgt. Falk told her he can call ACS if § 87(2)(b) is out of control. § 87(2)(b) got upset and called 911.

CCRB Statement

Sgt. Falk was interviewed at the CCRB on May 5, 2011 (encl. D 19-22). § 87(2)(g)

On January 25, 2011, Sgt. Falk responded to a call for a group of individuals smoking marijuana on the § 87(2) floor of § 87(2)(b) in Brooklyn. While doing a vertical patrol, Sgt. Falk observed § 87(2)(b) standing in the hallway with another individual. § 87(2)(b) was wearing boxer pajama pants and had his hands in the waistband of his pants. There were no pockets in the pants. Sgt. Falk approached § 87(2)(b). Sgt. Falk could smell marijuana in the air and since he arrested § 87(2)(b) a week before for the same offense, he told § 87(2)(b) why they were at the location and asked him if he had anything on him. § 87(2)(b) said that he did not have anything on him.

Sgt. Falk told § 87(2)(b) to take his hands out of his pants. § 87(2)(b) said that he did not have to, so the officers pulled his hands out of his waistband to see what he was holding. The officers patted § 87(2)(b) around his waist, but they did not feel anything. Given this, and since § 87(2)(b) was not holding any items, the officers determined that he did not have any marijuana or weapons. Sgt. Falk did not remember who removed § 87(2)(b)'s hands and frisked him, but stated that it was not him and must have been one of the officers.

§ 87(2)(b) started yelling for his mother. § 87(2)(b) exited a nearby apartment and accused the officers of harassing § 87(2)(b). The mother said that the officers previously arrested § 87(2)(b) for no reason. Sgt. Falk told her that they found marijuana on him. The mother said that it was only a small bag, which made Sgt. Falk think that the mother may have lost control over § 87(2)(b). Sgt. Falk tried to explain to the mother that there is a process through ACS called a Person in Need of Supervision (PINS) warrant that might be helpful to her. § 87(2)(b) became angrier and did not want to hear Sgt. Falk's suggestions. Sgt. Falk never said that he was calling ACS because she was a bad mother. The mother did not want help and was angry, so she called IAB in front of the officers.

No officer searched § 87(2)(b) or his friend. No officer ever stated, "Your son is a fucking liar." No officer said, "Your son is going to get arrested. I am going to make sure that if it is not me, someone else is going to arrest your son." Sgt. Falk stated that there was no reason to arrest § 87(2)(b) during this interaction. No officer threatened to arrest § 87(2)(b).

Back at the stationhouse, PO Ayers made an inquiry with ACS. PO Ayers informed ACS that no arrests were made, but that there may be problems in the household. As a result of this inquiry, ACS did go to the residence.

Subject Officer: PO LEONEL RAMOS

- *PO Ramos is a § 87(2)(b)-old, 5'8", 180 lbs., Hispanic male with black hair and brown eyes.*
- *On the incident date, PO Ramos worked the same tour and assignment as PO Ayers.*

Memobook

PO Ramos' memobook states that at 8:00 p.m. there was a call for a possible crime (narcotics) at § 87(2)(b) (encl. D 23-24).

Stop, Question, and Frisk Report

PO Ramos completed a Stop, Question, and Frisk Report for the stop of § 87(2)(b) (encl. D 25-26). The circumstances that lead to the stop were that he fit the description and made actions indicative of engaging in a drug transaction. The report notes that § 87(2)(b) was not frisked.

CCRB Testimony

PO Ramos was interviewed at the CCRB on May 11, 2011 (encl. D 27-29). On the incident date, § 87(2)(b) and § 87(2)(b) were stopped in the hallway of § 87(2)(b). PO Ramos corroborated PO Ayers', PO Bulzoni's, and Sgt. Falk's statements in regard to the stop. PO Ramos did not mention the smell of marijuana in the hallway as a factor in this case, stating that the reason for approaching § 87(2)(b) and § 87(2)(b) was because there was a call for teens using narcotics in the hallway and that § 87(2)(b) and § 87(2)(b) were the only teens in the hallway.

When § 87(2)(b) exited the apartment, Sgt. Falk, PO Bulzoni, and PO Ayers appeared to know her, so PO Ramos backed away and allowed the other officers to handle the situation.

PO Ramos frisked one of the individuals, who he referred to as "§ 87(2)(b) § 87(2)(b)" who was identified by the investigation as § 87(2)(b). § 87(2)(b) was fidgeting, so PO Ramos frisked him. PO Ramos did not search § 87(2)(b). PO Ramos did not frisk the other individual, identified by the investigation as § 87(2)(b) and did not know if any other officer did.

PO Ramos could not recall most of the verbal interaction between the civilians and the officers. No officer ever stated, "Your son is a fucking liar." No officer said, "When you turn 16, I will arrest you" or "If I don't lock you up, someone else will." PO Ramos did not remember how the interaction came to an end.

Witness Officer: PO MARK KISTOO

- *PO Kistoo is a § 87(2)(b) old, 5'8", 180 lbs., Hispanic male with black hair and brown eyes.*
- *On the incident date, PO Kistoo worked the same tour and assignment as PO Ayers.*

Memobook

On January 25, 2011, PO Kistoo's memobook states that at 8:00 p.m., there was a call for a possible crime involving narcotics at § 87(2)(b) (encl. D 30-32).

CCRB Statement

PO Kistoo was interviewed at the CCRB on September 23, 2011 (encl. D 33-35). On the incident date, PO Kistoo was not present for the initial stop because he was parking the police vehicle.

When PO Kistoo entered the location, he found the other officers with two males, who were identified by the investigation as § 87(2)(b) and § 87(2)(b) stopped in the hallway. § 87(2)(b) was wearing pajamas and sandals. Sgt. Falk asked questions such as where they live and who they know in the building.

PO Kistoo, PO Ramos, and PO Ayers stood back while Sgt. Falk and PO Bulzoni mainly interacted with the individuals. PO Kistoo did not see any officer frisk § 87(2)(b) or § 87(2)(b) explaining that they were at the location under the premise of individuals smoking marijuana, not for burglaries, robberies, or anything involving weapons. PO Kistoo did not see any officer place their hands on § 87(2)(b) or § 87(2)(b) PO Kistoo did not see any officer look inside of § 87(2)(b)'s socks.

PO Kistoo's testimony as to the verbal interaction between § 87(2)(b) and the officers was consistent with that of the other officers interviewed. PO Kistoo did not hear PO Bulzoni state that § 87(2)(b) was a "fucking liar" or that he would arrest him when he turned 16-years old. No officers cursed at any of the civilians at the location.

NYPD Documents

SPRINT and Communications CD

On January 25, 2011 at 7:45 p.m., a 911 call was placed by an individual stating that there was a group of males in the § 87(2)(b) floor hallway of § 87(2)(b) who do not live at the location. The individuals were possibly drinking alcohol. The information that was radioed to the officers was that there was a dispute and drug use on the fifth floor of § 87(2)(b) No further details or descriptions were provided (encl. D 36-42, F 1-4).

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of May 6, 2011, more than 90 days after the incident, with regard to the incident.

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilians CCRB History

- § 87(2)(b) has two prior CCRB complaints (encl. B 6):
 - § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) has one prior CCRB complaint, § 87(2)(b) [REDACTED]
- This is the first CCRB complaint involving § 87(2)(b) (encl. B 7).

Subject Officers CCRB History

- PO Bulzoni has been a member of the service for seven years and there is one substantiated CCRB allegation against him.
 - In CCRB case 201100781, the CCRB determined that PO Bulzoni spoke discourteously to an individual. The Board recommended command discipline. The NYPD has not yet imposed discipline (encl. B 1-2).
- Sgt. Falk has been a member of the service for twelve years and there are no substantiated CCRB allegations against him (encl. B 3).
- PO Ramos has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. B 4).

Conclusion

Identification of Subject Officers

- PO Bulzoni, PO Ramos, and Sgt. Falk acknowledged that they interacted with § 87(2)(b) and § 87(2)(b)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Sgt. Michael Falk authorized the stop of § 87(2)(b)

It is undisputed that Sgt. Falk, in addition to other officers under his authority, stopped § 87(2)(b) inside of the § 87(2)(b) floor hallway of § 87(2)(b) in Brooklyn. Sgt. Falk stated that the officers received a call stating that there was a group of people smoking marijuana in the § 87(2)(b) floor hallway. However, the communications CD indicates that the information that was provided to the officers over the radio was that there was a dispute and drug use on the § 87(2)(b) floor of § 87(2)(b). There was no further information provided. The officers, upon responding to the building, conducted a vertical patrol and observed § 87(2)(b) who was dressed in his pajamas, standing with one other individual on the § 87(2)(b) floor of the building. Both Sgt. Falk and PO Bulzoni stated that they recognized § 87(2)(b) from arresting him for marijuana a week prior to the incident. Sgt. Falk testified that he stopped § 87(2)(b) on suspicion of smoking marijuana because of § 87(2)(b)'s prior arrest, the call regarding drug use at the location, and the smell of marijuana in the hallway. § 87(2)(g)

An officer may stop an individual when he has reasonable suspicion that an individual has committed, is about to commit, or is in the process of committing a crime. People v. Debour, 40 N.Y. 2d 210 (encl. A 1-13). An anonymous tip does not provide reasonable suspicion to justify a seizure, except where the tip contains information suggestive of criminal behavior, allowing the officers to test the reliability of the tip. People v. Moore, 2006 NY Slip Op 1249 (encl. A 14-17). The mere presence in a building with an individual known to have been arrested in the past, does not suggest any criminal activity, and does not provide officers with the founded suspicion required to effectuate a common law inquiry. People v Jiminez, 187 A.D.2d 332 (encl. A 18-19).

§ 87(2)(g)

Sgt. Falk also testified that there was a smell of marijuana in the hallway. § 87(2)(g)
§ 87(2)(b) PO Ramos, PO Kistoo, and PO Bulzoni do not corroborate its presence. Furthermore, Sgt. Falk did not indicate where the smell was emanating from and did not articulate any factor to indicate that § 87(2)(b) was in possession of or had recently smoked marijuana. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Sgt. Michael Falk supervised the frisk of § 87(2)(b)

Allegation C: PO Frank Bulzoni frisked § 87(2)(b)

Allegation D: PO Leonel Ramos frisked § 87(2)(b)

It is undisputed that § 87(2)(b) was frisked by PO Bulzoni and PO Ramos who were acting under the supervision of Sgt. Falk. PO Bulzoni stated that upon approaching § 87(2)(b) and asking him if he was doing drugs, § 87(2)(b) had his hands in his pants pockets. PO Bulzoni stated that § 87(2)(b) refused to remove his hands from his pockets, so he conducted the frisk. PO Ayers corroborated PO Bulzoni in that § 87(2)(b) had his hands inside of his pockets and did not remove them when instructed to do so by PO Bulzoni and Sgt. Falk. PO

Ramos also admitted that he frisked § 87(2)(b) PO Ramos did not recall many of the details of the incident, but stated that the justification for the frisk was that § 87(2)(b) was “fidgeting.”

An officer may frisk an individual when he reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. People v. Debour, 40 N.Y. 2d 210 (encl. A 1-13). Patrol Guide Procedure 212-11 defines a frisk as running of the hands over the clothing, feeling for a weapon. Patrol Guide Procedure 212-11 also states that a frisk should be conducted if the officer reasonably suspects that he or others are in danger of physical injury (encl. A 20-22). However, an undefined waistband gesture is not sufficient to provide reasonable suspicion that an individual is armed. People v. Miller 121 A.D.2d 335 (encl. A 23-26).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation E: Sgt. Michael Falk supervised the search of § 87(2)(b) and § 87(2)(b)
§ 87(2)(b) alleged that both he and § 87(2)(b) were searched. § 87(2)(b) stated that PO Ramos, PO Bulzoni, and Sgt. Falk searched inside the back pocket of his pajamas and inside

of his socks. § 87(2)(b) stated that PO Ramos and PO Ayers looked inside of § 87(2)(b) § 87(2)(b)'s pockets and had him take off his shoes. All of the officers deny this allegation. § 87(2)(b) and § 87(2)(b) stated that they witnessed the “search,” but when they described what they saw, they stated that the officers were just rubbing the outside of § 87(2)(b) § 87(2)(b)'s clothing. There was a Stop, Question, and Frisk reported prepared for § 87(2)(b) and § 87(2)(b) both of which state that no search occurred. § 87(2)(g)

Allegation F: PO Frank Bulzoni spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that PO Bulzoni told her that § 87(2)(b) was a “fucking liar.” § 87(2)(b) § 87(2)(b) corroborated that PO Bulzoni was cursing when he spoke. § 87(2)(b) § 87(2)(b) stated that she specifically heard PO Bulzoni say that § 87(2)(b) was a “fucking drug dealer.” PO Bulzoni and all the officers interviewed, denied that he made this statement to § 87(2)(b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: ____3____

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Investigator: _____ Inv. Eric Black _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date